

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION

ROGER A. LIBBY,

Plaintiff,

v.

ERIC J. LIBBY,

Defendant.

No. 2:24-CV-11 RLW

**MEMORANDUM AND ORDER**

This matter is before the Court on a civil complaint filed by self-represented plaintiff Roger A. Libby, an inmate who is presently incarcerated at Lovelock Correctional Center in Lovelock, Nevada. ECF No. 1. The complaint is handwritten on twenty-three pages of unruled copy paper followed by three exhibits, including a photograph of a check, a document titled “First Amended Inventory and Appraisalment” from the Probate Division of the Circuit Court of Ralls County, Missouri, and a one-page document titled “Marshall’s Funeral.” ECF Nos. 1-4, 1-5, 1-6. Plaintiff indicates he is bringing a breach of contract claim pursuant to diversity jurisdiction under 28 U.S.C. § 1332 against the sole defendant, Eric J. Libby, who he identifies as his brother.

Plaintiff’s filing is defective as a complaint commencing a civil case because it was not drafted on a Court-provided form. *See* Local Rule 2.06(A) (“All actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms”). In addition, plaintiff has not paid the \$405 filing fee or filed a motion for leave to proceed *in forma pauperis*.<sup>1</sup> Because plaintiff is a self-represented litigant, the Court will allow him thirty (30) days from the

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<sup>1</sup>A motion for leave to proceed *in forma pauperis* should be filed on a Court form accompanied by a certified copy of plaintiff’s inmate account statement for the six-month period immediately preceding the filing of the complaint. *See* 28 U.S.C. § 1915(a)(2). Alternatively, plaintiff may pay the full \$405 filing fee.

date of this Memorandum and Order to file an amended complaint on the Court's form, and to file a completed motion for *in forma pauperis* or pay the Court's filing fee in full.

As to plaintiff's submission of an amended complaint, the Court warns that the filing of an amended complaint replaces the original complaint, and so it must include all claims plaintiff wishes to bring. *See In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005) ("It is well-established that an amended complaint supersedes an original complaint and renders the original complaint without legal effect"). Plaintiff must type or neatly print the amended complaint on this Court's Civil Complaint form, which will be provided to him.

In the "Statement of Claim" section of the form complaint, plaintiff should set forth a short and plain statement of the facts that support his claim or claims against the defendant. *See* Fed. R. Civ. P. 8(a). Each averment must be simple, concise, and direct. *See id.* Plaintiff must state his claims in numbered paragraphs, and each paragraph should be "limited as far as practicable to a single set of circumstances." *See* Fed. R. Civ. P. 10(b). Plaintiff should *not* include any introductory paragraphs. Plaintiff must not amend the complaint by filing separate documents. Instead, he must file a single, comprehensive pleading that sets forth his claims for relief.

Accordingly,

**IT IS HEREBY ORDERED** that the Clerk of Court shall mail to plaintiff a copy of the Court's 'Civil Complaint' form. Plaintiff may request additional forms as needed.

**IT IS FURTHER ORDERED** that the Clerk of Court is directed to mail to plaintiff a copy of the Court's 'Application to Proceed in District Court without Prepaying Fees or Costs' form.

**IT IS FURTHER ORDERED** that plaintiff shall file an amended complaint on the Court-provided form by **March 1, 2024**. Plaintiff is advised that his amended complaint will take the place of his original filing and will be the only pleading the Court will review.

**IT IS FURTHER ORDERED** that plaintiff must either pay the \$405 filing fee or submit a fully completed application to proceed without prepaying fees or costs by **March 1, 2024**. If plaintiff files a motion to proceed *in forma pauperis*, he must also submit a certified copy of his inmate account statement for the six-month period immediately preceding the filing of the complaint.

**IT IS FINALLY ORDERED** that if plaintiff fails to comply fully and timely with this Order, the Court will dismiss this action without prejudice and without further notice.

A handwritten signature in cursive script that reads "Ronnie L. White". The signature is written in black ink and is positioned above a horizontal line.

**RONNIE L. WHITE**  
**UNITED STATES DISTRICT JUDGE**

Dated this 31st day of January, 2024.